3: Clark S-5 (1950) 1951 MH1 Iraq MH1

872 645 embody previous legislation and regulations into the General Education Law of 1940. Under this law it was directed that 'The Ministry of Education shall undertake to create a nation sound in body and mind and character'. So far as primary education was concerned it was provided that it should be free, that the age of admission to the primary school should not be less than six and that the period should be six years. It was also decreed that 'Primary education shall be obligatory and shall be carried out in the districts assigned by the Ministry of Education when necessary facilities are available. Pupils' guardians infringing this Article shall be liable to a fine not exceeding three dinars'.

[681]

871 645 By this time the administration of education had been highly systematized and it remains so in the hands of the Ministry of Education centred in Baghdad. A feature of this administration is its very high degree of centralization, with the Ministry of Education controlling and supervising the most minute details both of curricula and expenditure. The Minister of Education himself appears to exercise a greater control of detail than in other countries. Under the Minister primary education is directed by a Director-General of Primary Education. In each of the fourteen provinces of Iraq there is a Provincial Director of Education who is, in reality, the agent of the Ministry of Education, and is in no sense a local official responsible to a local authority.

THE PRESENT POSITION OF COMPULSORY EDUCATION

872 658 Although legal provision for compulsory primary education was made in the General Education Law of 1940, as a reality it does not exist in any part of Iraq. Over the whole of the country out of an estimated total of 750,000 children of primary school age, not more than 175,000 attend primary schools.

Shortly after the passing of the General Education Law of 1940 an attempt was made to apply its compulsory primary education provisions in two of the provinces. Apparently, however, the declaration of compulsory education in these two provinces failed in its object. The main reasons for this failure were the poverty [464] of the majority of the parents who were unable to dispense with the labour of their children on the land, the mobility of part of the population which was still in a semi-nomadic state, and the [362] inability to persuade teachers to live in remote villages where housing facilities and other amenities are most inadequate. It is also stated that, these economic and social reasons apart, other [696] factors such as the unwillingness of the local courts to inflict the legal penalties for non-attendance and the active opposition of

6:Ireland S-5 (no date)1937 MHI Iraq MHI

175* 727 692 Frontier Crimes Regulation and was promulgated in February, 1916. It gave authority to the Political Officers to invoke a tribal *majlis* or other arbitrating body to deal, in accordance with tribal custom, with all cases in which any of the parties concerned was a tribesman.[1]

In all arbitration procedure, the Political Officer had the final word, although the Chief Political Officer might review the case. The Political Officer had to confirm the findings of the *majlis*, and he might set aside or add to the sentences imposed.[2] He was also invested with magisterial power to try cases which did not lend themselves to the application of tribal arbitration.[3]

The Regulation in its application proved congenial to the tribes, for it enabled them to settle disputes in ways long familiar to themselves. It also aided in tribal settlement and pacification by giving effect to tribal opinion obtained by arbitration, and it raised the importance of the shaikhs by giving them a recognized place in the political and legal system. The Political Officers, on their side, found that considerable work was taken off their shoulders.[4]

175* 727* 628 681 Over one point of tribal justice the views of the tribesmen and of the Political Officers often clashed. In cases of murder arising out of a blood-feud, the tribesmen were accustomed to regard *fasl*[5] or payments of money and usually, of women, as sufficient to settle the score and to end the feud. Imprisonment or capital punishment was thus considered not only harsh but unnecessary. In many cases where a woman violated or had been even accused of violating the desert code of morality, the death of the offender was demanded by the code in the name

[1] *Tribal Criminal and Civil Disputes Regulation*, G.O.C. Proclamation No. 2 of 1916, ch. iii, Sec. 7.

[2] Ibid., Sections 10, 11, 13. [3] Ibid., ch. iv and v.

[4] *Reports of Admin. for* 1918 *of Divisions and Districts of the Occupied Territories of Mesopotamia* (Calcutta, n.d.): Qurna Report, p. 306 (hereafter *Admin. Report*, 1918).

[5] For valuable first-hand observations on *fasl*: *Monthly Reports of Political Officers of the Occupied Territories, November*, 1919 (hereafter *Monthly Rep'ts*): Nasiriya, pp. 94-5.

6:Ireland S-5 (no date)1937 MHl Iraq MHl

of honour (*namūs*).[1] Capital punishment for such murders, which were frequent and usually premeditated and brutal, cut across tribal justice. The Political Officers, on their side, found such customs abhorrent and contrary to their ideas of justice.[2] Their natural tendency was to override the decisions of the tribal *majlis* and to impose imprisonment or death penalties. The problem was partially solved by the gradual recognition of the tribal point of view by the British authorities, but the modification of tribal custom has taken longer. At the present, it still constitutes one of the major problems in the administration of the tribal areas of 'Iraq.

175* 727* 628 681

The Revenue Department

No single task of greater magnitude faced the British administrators of the Occupied Territories than that of organizing the Revenue Department. The collection and administration of revenue in accordance with the Turkish system but freed from abuse and corruption were not the only problems. Associated problems of land tenure, of revenue assessment, of *Auqāf* administration, in all their strangeness and complexity, had to be studied and solved. Responsibility for other activities, such as Excise and Customs, control of Hostile Trading Concerns, of the Public Debt, and of Education had to be assumed. To render the task more difficult, papers and records where they had not been destroyed, were out of date and, with the exception of land-registration, in confusion, requiring weeks of careful sorting.[3] Responsible officials had fled, and although

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[1] See Thomas, Bertram, *Alarms and Excursions in Arabia*, 1931, pp. 86-7.

[2] *Admin. Report*, 1918: Hilla Division, pp. 126, 133; *Monthly Rep'ts, December*, 1919: Qurna Division, p. 59; Ibid., *August*, 1919: Qurna Division, p. 74.

[3] Cf. the excellent unsigned article (by C. C. Garbett, I.C.S.): *Turkish Rule and British Administration in Mesopotamia* in *Quarterly Review*, Vol. CCXXX, pp. 403 ff. The claim made there (p. 411), however, that demand-statements for the annual tax on date trees as prepared by the Turks, were found intact and collection of this as well as other revenue were begun within a few days of the occupation of Basra, is not borne out by the records of the period, as *Revenue Admin. Report, January-March*, 1915 (confidential), nor by personal testimony of the officials on the spot at the time.

imprisonment not exceeding two months or to both, fine and imprisonment. 312 466

The Directorate-General of Irrigation may undertake the clearance of irrigation canals by machinery, and the persons benefiting from such work shall refund the costs so incurred. (Last para. of Art. 14, added by Amending Law of 1945).

3) Offences and Penalties under the Irrigation and Embankments Law 312 681

Articles 15 to 18 deal with offences and penalties, in addition to those already mentioned.

Article 15 prescribes the death penalty for whomsoever wilfully and maliciously damages or alters any irrigation work thereby causing injury to life or to property and with penal servitude for life, or a term not exceeding 15 years, if it does not.

Article 16 lists a series of offences punishable by imprisonment not exceeding two months or a fine not exceeding 500 rupees of to both imprisonment and fine. Among the offences stipulated herein are:

Damage, alteration and obstruction to any irrigation work, interference with the supply of water; fouling of water; destruction, tampering with, or alteration of land, level marks or water gauges; damages caused to canal or flood enbankments by grazing cattle; refusal or neglect to supply labor; neglect to prevent waste of water; obstruction to Government official from executing their duties; etc. Addition to or cancellation or alteration to the above list may be made by Regulation (Article 20).

Article 17 prescribes a fine not exceeding 30 rupees for persons failing to comply with a notice to execute repairs, within the time specified in such notice.

4) Miscellaneous Provisions

In any proceedings on offences mentioned in Articles 12 and 16 thereof, before a Magistrate, a report signed by an assistant engineer or by any senior official in the Irrigation Department may be accepted as evidence in court. The recovery of sums due 312 681 694

312 to the irrigation department, and the procedure to be followed
681 for their recovery though covered by Article 19 is now done
694 through the Mutassarrifs concerned in accordance with the Law for the Collection of Debts Due to the Government No. 43 of 23 April 1931 as amended by subsequent Laws.

5) Rice Cultivation

243 The Law for Rice Cultivation No. 23 of 31 March 1932, as
656 subsequently amended by Law 53 of 15 May 1940, prohibits or restricts in areas defined by Regulation issued from time to time, the cultivation of rice for health reasons, economy in the use of water or soil conservation (Article 1).

Rice cultivation could only be conducted under special license (Article 4), and areas in which rice cultivation is restricted shall be fixed by Regulation (Article 2).

Regulation No. 34 of 28 August 1944, defines the regions in which rice cultivation is prohibited and also fixes areas in masharas for regions where rice could be cultivated.

The Minister of Agriculture shall decide the manner in which areas for rice cultivation alloted to each Liwa are to be distributed, and the mutassarrif concerned shall issue a notice inviting those interested to apply for the necessary permits.

Requests must be submitted to the qaimmaqam of the qadha in which the lands are situated, and the mutassarrif, to whom the requests are transferred shall issue the permits, with the requirements of the Irrigation Department. The minimum distance between rice fields and inhabited localities shall be three kilometres. The permits are non-transferable and are strictly limited to the persons and to the plot of land and irrigation works stated on them. The permit holder agrees to the rotation of water supplies determined by the Irrigation Department, and he accepts responsibility for all shortage of irrigation supply with consequent damage to crops.

6) Offences and Penalties under the Law for Rice Cultivation

243 It is forbidden for any person to exceed the area for rice
681 cultivation fixed in the permits, or to cultivate without permit in prohibited and restricted areas. Contraveners shall be fined

ID. 1/500 for every mashara of land cultivated with rice without a permit or in excess of the permitted areas (Article 5). I 243 681

7. Forcible Assistance Law

In addition to the provision of Article 13 of the Irrigation and Embankments Law for emergency requisition of labor, the Ministry of Interior may under the Forcible Assistance Law No. 27 of 31 March 1923, as subsequently amended by Law No. 24 of 30 March 1936, in sudden and unforeseen circumstances such as water floods, fire, locusts, etc. authorize the mutasarrifs with the power of collecting and employing labor at rates to be prescribed by the Government. 466

Every laborer who contravenes the order shall be forcibly taken to the place of the work and shall afterwards be punished with imprisonment not exceeding one month or a fine not exceeding Rs. 100.

Persons having jurisdiction to collect laborers who refuse to supply the necessary number of labor or to give the necessary assistance shall upon conviction be liable to imprisonment not exceeding 6 months or to a fine not exceeding Rs. 1000 or to both imprisonment and fine.

JORDAN

Since the Hashimite Kingdom of Jordan gained its independence from the Ottoman Empire, the Mejelle Civil Code has remained in force there. Subsequently, another law supplementing water legislation, No. 38 dated 8 August 1946 (15 Muharram 1366) has been enacted. Jordan authorities are considering amending this latter law at the present time, but the draft is still under study by the interested departments. 1/ This law consists of five sections with 41 articles. J 671 312

1/Schweng, L. D. Expanded Technical Assistance Program of the Food and Agriculture Organization of the United Nations, Rome, Italy. Private letter.